

The House Committee on Ways and Means offers the following substitute to HB 517:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, related to revenue and  
2 taxation, so as to provide for the comprehensive revision of the manner and method of  
3 assessing real property; to limit valuation increases of real property; to provide for  
4 procedures, conditions, and limitations; to provide for applicability to certain types of real  
5 property; to provide for the manner and method of increasing or removing mill limitations  
6 regarding school systems and municipalities; to provide for optional discontinuation  
7 procedures; to provide for related matters; to provide for effective dates and contingencies;  
8 to provide for automatic repeal of certain provisions under certain circumstances; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 SECTION 1.

12 Title 48 of the Official Code of Georgia Annotated, related to revenue and taxation, is  
13 amended by adding a new chapter to read as follows:

14 "CHAPTER 5C  
15 ARTICLE 1

16 48-5C-1.  
17 Pursuant to Article VII, Section I, Paragraph IV of the Constitution, 'The Ad Valorem Tax  
18 Assessment Limit Amendment,' the provisions of this article shall control over and  
19 supercede anything to the contrary in Chapter 5 of this title in any county and all taxing  
20 jurisdictions therein, including any municipalities and school districts, in which the  
21 provisions of said Paragraph IV are effective.

48-5C-2.

(a) The rate of increase of the assessed value of real property for state, county, municipal, or educational ad valorem tax purposes, except as otherwise required by Code Section 48-5C-7, shall not exceed an aggregate of 9 percent for each three-year period of successive ownership and, except as provided in this subsection, shall not exceed from one taxable year to the succeeding taxable year the lesser of 3 percent or the percent change in the rate of economic inflation on individual taxpayers as determined by the commissioner. For such purpose, the commissioner may use the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics of the United States Department of Labor and any other reliable economic indicator determined by the commissioner or such other designee as specified by general law to be appropriate. Such rate shall be determined by the commissioner not later than December 1 of each year. Within such three-year period, such 3 percent limitation shall operate in a cumulative manner so if an increase in one year is less than 3 percent, the 3 percent cap for the next succeeding year shall be increased by an amount equal to the difference in the actual percentage increase in the preceding year and 3 percent.

(b) Nothing in this Code section shall be construed to prohibit the assessed value of real property from decreasing.

(c) If real property or interests therein are sold or transferred, such real property shall be assessed for ad valorem tax purposes in an amount not to exceed the applicable percentage of fair market value pursuant to Code Section 48-5-7. Substantial additions or improvements to such real property shall be assessed for ad valorem tax purposes at the applicable percentage of fair market value pursuant to Code Section 48-5-7 and shall be added to the owner's valuation amount under this subsection.

(d) Nothing in this article shall be construed to alter or affect in any manner the authority granted to the General Assembly under Article VII, Section II, Paragraph II of the Constitution to enact homestead exemptions.

48-5C-3.

In addition to any other provision of Chapter 5 of this title authorizing error or omission correction by local tax officials, the commissioner shall be authorized to correct any manifest, factual error or omission in the valuation of real property.

48-5C-4.

(a) For purposes of determining when any parcel of real property shall be reassessed, an assessable transfer of interest in any real property includes, but is not limited to, the following:

57 (1) A conveyance by deed;

58 (2) A conveyance by land contract;

59 (3) A conveyance to a trust, except if the settlor or the settlor's spouse, or both, conveys  
60 the property to the trust and the sole present beneficiary or beneficiaries are the settlor or  
61 the settlor's spouse, or both;

62 (4) A conveyance by distribution from a trust, except if the distributee is the sole present  
63 beneficiary or the spouse of the sole present beneficiary, or both;

64 (5) A change in the sole present beneficiary or beneficiaries of a trust, except a change  
65 that adds or substitutes the spouse of the sole present beneficiary;

66 (6) A conveyance by distribution under a will or by intestate succession, except if the  
67 distributee is the decedent's spouse;

68 (7)(A) A conveyance by lease if the total duration of the lease, including the initial  
69 term and all options for renewal, is more than ten years or the lease grants the lessee a  
70 bargain purchase option.

71 (B) As used in this paragraph, the term 'bargain purchase option' means the right to  
72 purchase the property at the termination of the lease for not more than 80 percent of the  
73 property's true cash value at the termination of the lease.

74 (C) This paragraph shall not apply to personal property or that portion of the property  
75 not subject to the leasehold interest conveyed;

76 (8) A change of use of real property when classification of property changes as a result  
77 of a local zoning ordinance change; or

78 (9) The passage of ten years since the last assessable transfer of interest for  
79 nonhomestead real property.

80 (b) A transfer of interest resulting in a reassessment required pursuant to this article  
81 occurs at the time of execution of the instruments directly resulting in the transfer of  
82 interest and without regard as to whether or not the applicable instruments are recorded.

83 (c) A transfer of interest requiring reassessment shall not include:

84 (1) Transfers not subject to federal income tax in the following circumstances pursuant  
85 to the specified provisions of the Internal Revenue Code:

86 (A) 1033 Conversions-Fire and Insurance Proceeds to Rebuild;

87 (B) 1041 Transfers of Property Between Spouses or Incident to Divorce;

88 (C) 351 Transfer to a Corporation Controlled by Transferor;

89 (D) 355 Distribution by a Controlled Corporation;

90 (E) 368 Corporate Reorganizations; or

91 (F) 721 Nonrecognition of Gain or Loss on a Contribution to a Partnership;

92 (2) A transfer of that portion of property subject to a life estate or life lease retained by  
93 the transferor, until expiration or termination of the life estate or life lease;

(3) A transfer through foreclosure or forfeiture of a recorded instrument or through deed or conveyance in lieu of a foreclosure or forfeiture;

(4) A tax deed which is redeemed by the person to whom taxes are assessed within one year of the date of the tax sale;

(5) A conveyance to a trust if the settlor or the settlor's spouse, or both, convey the property to the trust and the sole present beneficiary of the trust is the settlor or the settlor's spouse, or both;

(6) A transfer for security or an assignment or discharge of a security interest;

(7) A transfer of real property or other ownership interests among members of an affiliated group. As used in this paragraph, the term 'affiliated group' is as defined in Section 1504 of the Internal Revenue Code;

(8) A transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled; or

(9) A transfer of an interest in a timeshare unit by deed or lease.

48-5C-5.

(a) As used in this Code section, the term 'natural person' means an individual or group of individuals who directly owns real property outside of any legal entity. A natural person shall not include a trustee, agent, officer, or member of a legal entity which has an ownership interest in real property. A legal entity includes, but is not limited to, a corporation, partnership, limited liability company, unincorporated association, or trust.

(b) The commissioner is authorized to promulgate regulations to implement this article, including, without limitation, providing for those circumstances that constitute a change in the beneficial ownership of real property or an assessable transfer of interest not evidenced by transfer of fee simple title. The commissioner shall examine the substance, rather than merely the form of the transfer, and related and surrounding transactions, and may use the step transaction, economic reality, quid pro quo, personal benefit, and other judicially developed doctrines in determining whether the requisite assessable transfer of interest has occurred.

(c) The county assessor may send to any real property owner of record, or the owner's agent of record, to the address of record, a certificate prescribed by the commissioner which shall be signed and returned by the property owner or the owner's agent certifying details of the ownership of the property. The county assessor shall also be authorized to request, and the taxpayer shall provide, the most recent trust documentation regarding such property. In addition to any applicable interest and penalties for the late payment of property taxes, if the owner or owner's agent knowingly falsifies any detail on the

certificate, then the owner or owner's agent is subject to a civil penalty imposed by the commissioner, the county assessor, or an assessor appointed to handle multiple county assessments pursuant to an intergovernmental agreement, as applicable. The amount shall be three times the taxes lawfully due on the property. This civil penalty shall be enforceable and collectable in the same manner as property tax.

48-5C-6.

(a) Upon the occurrence of an event requiring reassessment under Code Section 48-5C-4, for each of the ensuing seven taxable years, any annual increase in the assessed value of the property attributable thereto shall for tax purposes be limited to one-seventh of the applicable percentage of fair market value pursuant to Code Section 48-5-7 multiplied by the difference between the transferee's fair market value and the most recent value of that property established by the board of assessors in the year the transfer occurred plus the rate established in Code Section 48-5C-2.

(b) Nothing contained in this Code section shall be construed to limit the decrease in the assessed value of real property based on a subsequent decrease in the fair market value following the assessable transfer of property.

48-5C-7.

The provisions of this article shall not apply to:

(1) Bona fide agricultural property under Article VII, Section I, Paragraph III(a) of the Constitution;

(2) Tangible property which is listed in the National Register of Historic Places or in a state register under Article VII, Section I, Paragraph III(d)(1) of the Constitution;

(3) Property on which there have been releases of hazardous waste, constituents, or substances into the environment under Article VII, Section I, Paragraph III(d)(2) of the Constitution;

(4) Bona fide conservation use and bona fide residential transitional property under Article VII, Section I, Paragraph III(e) of the Constitution;

(5) Forest land conservation property under Article VII, Section I, Paragraph III(f) of the Constitution; and

(6) Public utility property under Article VII, Section I, Paragraph III(g) of the Constitution.

ARTICLE 248-5C-20.

(a) The mill limitation in effect on January 1, 2011, for any school system pursuant to Article VII, Section VI, Paragraph II of the Constitution may be increased or removed for any school system upon the adoption of a resolution by the board of education by a majority of the members of the board of education conditioned upon approval by a majority of the qualified voters residing within the limits of the school system voting in a referendum thereon.

(b) Following the adoption of such resolution, the board of education shall notify the election superintendent by forwarding to the superintendent a copy of the resolution calling for the increase or removal of the mill limitation.

(c) Upon receipt of the resolution, the election superintendent shall issue the call for an election for the purpose of submitting the question of the imposition of the tax to the voters of the school system. The election superintendent shall issue the call and shall conduct the election in the manner authorized under Code Section 21-2-540. The election superintendent shall cause the date and purpose of the election to be published once a week for four weeks immediately preceding the date of the election in the official organ of the county.

(d) The ballot submitting the question of increasing or removing the mill limitation shall have written or printed thereon the following:

'( ) YES Shall the current mill limit applicable to taxes of the school system be (increased to a mill limit) (removed so that there is no mill ( ) NO limitation)?'

(e) All persons desiring to vote in favor of increasing or removing the mill limitation shall vote 'Yes,' and all persons opposed to increasing or removing the mill limitation shall vote 'No.' If more than one-half of the votes cast are in favor of increasing or removing the mill limitation, then the mill limitation shall be increased or removed accordingly. The election superintendent shall hold and conduct the election under the same rules and regulations as govern special elections. The superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be paid from school system funds.

48-5C-21.

(a) The mill limitation in effect on January 1, 2011, for any municipality may be increased or removed for any municipality upon the adoption of a resolution by the governing authority of the municipality by a majority of the members of the governing authority

conditioned upon approval by a majority of the qualified voters residing within the limits of the municipality voting in a referendum thereon.

(b) Following the adoption of such resolution, the governing authority shall notify the municipal election superintendent by forwarding to the superintendent a copy of the resolution calling for the increase or removal of the mill limitation.

(c) Upon receipt of the resolution, the election superintendent shall issue the call for an election for the purpose of submitting the question of the imposition of the tax to the voters of the municipality. The election superintendent shall issue the call and shall conduct the election in the manner authorized under Code Section 21-2-540. The election superintendent shall cause the date and purpose of the election to be published once a week for four weeks immediately preceding the date of the election in the official organ of the county.

(d) The ballot submitting the question of increasing or removing the mill limitation shall have written or printed thereon the following:

'( ) YES Shall the      mill limit applicable to taxes of the City of      be (increased ( ) NO to a      mill limit) (removed so that there is no mill limitation)?'

(e) All persons desiring to vote in favor of increasing or removing the mill limitation shall vote 'Yes,' and all persons opposed to increasing or removing the mill limitation shall vote 'No.' If more than one-half of the votes cast are in favor of increasing or removing the mill limitation, then the mill limitation shall be increased or removed accordingly. The election superintendent shall hold and conduct the election under the same rules and regulations as govern special elections. The superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be paid from municipal funds.

(f) The procedures provided in this Code section shall be supplemental to and not in lieu of any other method for increasing or removing a millage cap by local Act."

## **SECTION 2.**

This Act shall become effective on January 1, 2011; provided, however, that this Act shall only become effective on January 1, 2011, upon the ratification of a resolution at the November, 2010, state-wide general election, which resolution amends the Constitution so as to provide for assessment limitations by authorizing referenda on value increases and ratifying and authorizing base year assessed value homestead exemptions. If such resolution is not so ratified, this Act shall not become effective and this Act shall stand repealed in its entirety on January 1, 2011.

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**SECTION 3.**

231 All laws and parts of laws in conflict with this Act are repealed.